STREAMSIDE PROTECTION REGULATIONS – June 10, 2008

"Narrow Lot" and Setbacks Based on "Precedent"

Precedent Method of Establishing Setbacks

Understanding: This method would apply a "de facto" setback established by the location of existing buildings in an area to new construction on lots in the immediate vicinity. Possible language:

- Where existing buildings in the immediate vicinity of a building site effectively create a setback closer to the stream than would otherwise be allowed, the setback for new construction will be established as follows: Average setback of existing buildings within ¼ mile (immediate vicinity) of the proposed building site

Circumstances where lot depth is exceeded by the setback:

- In the event a proposed setback restriction exceeds the depth of an existing lot, thereby rendering the lot potentially unbuildable, a site-specific minimum building setback shall be established equivalent to the lesser of the following three options:
    a. Average: Average setback of existing buildings within ¼ mile (immediate vicinity) of the proposed building site
    b. Half-the-maximum depth: ½ the maximum depth of the property as measured from the ordinary high water mark
    c. Minimum: 100 foot minimum
- Under no circumstance will a property owner be deprived of all rights to develop a site without just compensation. A building setback will be reduced on a case-by-case basis where strict compliance with the terms of this ordinance would preclude reasonable economic use of the property.

To be determined:

1. What is the "immediate vicinity?"
2. Applicable to "narrow lots" or to all lots within the immediate vicinity?

Possible approaches where precedents do not exist

1. Buffer Averaging Approach – Establish an "ideal" fixed setback distance and then adjust setbacks based on the particular circumstances of the building site, e.g. one building allowed close to a stream while other structures are placed further back on the property.
2. Incentive Approach – In exchange for the developer agreeing to a "preferred" setback, an incentive is offered, e.g., reduced or waivered fees or taxes, etc.
3. Transfer of Development Rights Approach – in exchange for agreeing to development restrictions on a given parcel of land, the developer is allowed to build closer to the stream at another site.
4. Ecology-based Approach – setback is determined based on protecting "important" riparian habitat, i.e. vegetation, using scientific standards.
5. Change-in-Use Approach – previously platted property, i.e. existing subdivision, is held to a different, typically more generous, setback than newly platted property.